

**DEC 15 2005**

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**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

ARTURO CHAVEZ VALENCIA; et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 03-70125

Agency Nos. A74-803-027

A74-803-028

A74-803-029

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted December 5, 2005<sup>\*\*</sup>

Before: GOODWIN, TASHIMA and FISHER, Circuit Judges.

Arturo Chavez Valencia, his wife Angelica Chavez and their son, Jesus  
Chavez-Gonzales, natives and citizens of Mexico, petition for review of an

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<sup>\*</sup> This disposition is not appropriate for publication and may not be  
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

order of the Board of Immigration Appeals (“BIA”) summarily affirming an immigration judge’s (“IJ”) order denying their applications for suspension of deportation. We dismiss the petition for review.

We lack jurisdiction to consider the petitioners’ claim that the IJ acted with bias and was not an impartial and neutral adjudicator because this issue was not raised before the BIA. *See Vargas v. INS*, 831 F.2d 906, 907-08 (9th Cir. 1987).

We also lack jurisdiction to review the IJ’s finding that none of the petitioners established extreme hardship because it involves an exercise of discretion. *See Kalaw v. INS*, 133 F.3d 1147, 1152 (9th Cir. 1997). We do not review the petitioners’ challenge to the IJ’s continuous physical presence finding because the hardship determination is dispositive. *See id.* at 1151-52 (to qualify for suspension of deportation, an applicant must show seven years continuous physical presence, good moral character and extreme hardship).

Pursuant to *Elian v. Ashcroft*, 370 F.3d 897 (9th Cir. 2004), the petitioners’ voluntary departure period will begin to run upon issuance of this court’s mandate.

**PETITION FOR REVIEW DISMISSED.**